

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3835 of 2023

Arising Out of PS. Case No.-104 Year-2023 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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1. MD. KAMAR SON OF MD. JAJID RESIDENT OF VILLAGE -
BHUIDHARA, P.S. - SAMASTIPUR (MUFFASIL), DISTRICT -
SAMASTIPUR
 2. MD. SOHAIL @ NIRALA SON OF MD. JAFIR RESIDENT OF
VILLAGE - BHUIDHARA, P.S. - SAMASTIPUR (MUFFASIL),
DISTRICT - SAMASTIPUR

... .. Appellant/s

Versus

1. THE STATE OF BIHAR PATNA
2. BIMAL DEVI WIFE OF RAJ KUMAR AKELA RESIDENT OF VILLAGE
- BHUIDHARA, P.S. - SAMASTIPUR (MUFFASIL), DISTRICT -
SAMASTIPUR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Choudhary Shyam Nandan, Adv.
For the Respondent/s : Ms.Usha Kumari 1, Spl.PP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

8 13-11-2025 Heard learned counsel for the appellants and learned

Spl. P.P. for the State. However, learned counsel for the

respondent no. 2 is not present despite notice is validly served

upon the respondent no. 2.

2. This is an appeal under Section 14(A)(2) of the

Scheduled Castes and Scheduled Tribes against the refusal of

prayer for anticipatory bail of the appellants vide order dated

28.02.2023 passed by the learned Special Judge, SC/ST (PoA)

Act, Samastipur in connection with Samastipur (Muffasil) P.S.



Case No. 104 of 2023 registered for the alleged offences under Sections 147, 149, 341, 323, 307, 447, 504, 354 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes Act.

3. As per prosecution case, on 11.01.2023, the informant and her family members were assaulted by the co-accused persons including the appellant no. 1. A written complaint had already been given regarding that incident. After two days, the appellants and the co-accused persons again came to the informant's house and pressurized her to withdraw the case. On 19.01.2023, all the accused persons armed with weapons came at the door of the informant's house and started abusing her. On protest, the co-accused, Nitish assaulted the informant on head with iron rod causing serious head injury. When the informant's husband came to save her, the co-accused, Md. Azad pointed a pistol on his temple and threatened to kill him. On hulla, the co-accused persons including the appellant no. 1 outraged the modesty of the informant and the appellant no. 2, Md. Nirala tried to behave indecently with her but she somehow escaped along with her husband.

4. Learned counsel for the appellants submits that the appellants are innocent and have been falsely implicated in this



case. There is no specific allegation against the appellants. Nothing has been recovered from the conscious possession of the appellants. The specific allegation of assault is against the co-accused, Nitish Kumar. The only allegation against the appellant, Nirala is of molesting the informant. It is further submitted that no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellants. The appellants have one criminal antecedent.

5. Learned Spl. P.P. for the State has vehemently opposed the prayer for anticipatory bail of the appellants.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellants, the impugned order dated 28.02.2023 passed by the learned Special Judge, SC/ST (PoA) Act, Samastipur in connection with Samastipur (Muffasil) P.S. Case No. 104 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their arrest/ surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/-



(Rupees Twenty thousand)each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (PoA) Act, Samastipur in connection with Samastipur (Muffasil) P.S. Case No. 104 of 2023, subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The appellants are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellants are liable to be cancelled.

(Chandra Prakash Singh, J)

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